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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,516	11/13/2003	Soeren Soeholm	340502-1010	8665
24504	7590	01/26/2006	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			PRICE, CARL D	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/712,516	Applicant(s) SOEHOLM ET AL.	
	Examiner CARL D. PRICE	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
     4a) Of the above claim(s) 18, 19 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 20-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/13/2003</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### **Election/Restrictions**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, 20-29, drawn to a mechanical draft system and method, classified in class 126, subclass 299R.
- II. Claims 18-19, drawn to a program stored on a computer, classified in class 700, subclass 90.
- III. Claim 30, drawn to a system for exercising the bearings of a fan, classified in class 417, subclass 423.12.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II, and inventions of Group I and III, respectively, are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because 1) the combination does not require a program stored on a computer-readable medium as is required in the subcombination of Group II, and 2) the combination does not require bearings and a system for exercising the bearings in the subcombination of Group III. The subcombination of Group II has separate utility by itself as a computer program for operating a fan of general utility. The subcombination of Group III has separate utility by itself as a system for exercising, that is freeing, a bearing of a fan of general utility.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II and II, respectively, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with **Mr. Brown (Reg. No. – 51,310)** on 01/18/2006 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-17 and 20-29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18, 19 and 30 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### **Claim Objections**

Claims 25 and 26 are objected to because of the following informalities: Claims 25 and 26 should be re-typed as separate paragraphs. Appropriate correction is required.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1-7, 14 and 15: Rejected under 35 U.S.C. 103(a)**

Claims 1-7, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US005205783A (Dieckert et al) in view of JP 01-102230.

US005205783A (Dieckert et al) shows and discloses a draft system for a building space including:

- an intake fan (130) for drawing air from outside a mechanical room into the space;
- a plurality of appliances (144, C, O), each appliance having an air intake (64) for drawing air from the mechanical room into the appliance and having an exhaust (66) for exhausting air out of the appliance;
- ducts (66), connected to the air exhausts of the appliances, for transporting air outside the space;
- an exhaust fan (132), connected to the ducts, for drawing air from the ducts to the atmosphere;

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- a pressure transducers (50-2) for receiving a first pressure reading from the inlet and exhaust of the space, the transducers outputting a differential pressure signal indicative of the difference between the first and second pressure readings; and
- a pressure controller for controlling the speed of the intake fan, the speed of the exhaust fan, and the operation of the plurality of appliances in response to the differential pressure signal.

**US005205783A (Dieckert et al)** shows and discloses the invention substantially as set forth in the claims with possible exception to:

- the pressure transducer monitoring and determining any differential pressure between the interior and exterior of the building determining to operate the appliances.

**JP 01-102230** teaches, from the building ventilation field of endeavor a first pressure sensor (10), located within a building room for supplying a first pressure reading; and a second pressure sensor (9) located within the atmosphere exterior of the room for supplying a second pressure reading.

In regard to claims 1-7, 14 and 15, for the same purpose of maintaining proper or desirable ventilation of a building space, it would have been obvious to a person having ordinary skill in the art to monitor and control a building ventilation system of **US005205783A (Dieckert et al)** according to a differential vague and signal obtained from a first pressure sensor located within a building room for supplying a first pressure reading and a second pressure sensor located within the atmosphere exterior of the room for supplying a second pressure reading, in view of the teaching of **JP 01-102230**.

**Claims 8-13, 16, 17 and 20-29: Rejected under 35 U.S.C. 103(a)**

Claims 8-13, 16, 17 and 20-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US005205783A (**Dieckert et al**) in view of JP 01-102230 and US2002/0014538A1 (**Weimer et al**).

US005205783A (**Dieckert et al**) shows and discloses the invention substantially as set forth in the claims with possible exception to:

- an appliance controller and relay boxes control more than ten appliances including boilers, furnaces, water heaters, or laundry dryers;
- an R5-232 for receiving the differential pressure signal from a differential transducer;
- means for shutting down a plurality of appliances when a differential pressure exceeds a predetermined threshold;
- means for restarting the appliances in succession in an order based on a priority list; and
- means for monitoring the differential pressure to ensure that the means for restarting does not cause the differential pressure to exceed the predetermined threshold.

US2002/0014538A1 (**Weimer et al**) teaches, from the building ventilation field of endeavor, a draft system for a building space including:

- a fan (14, 100) for drawing air from a mechanical room;
- a plurality of appliances (72, 74, 76), each appliance having an air intake (not shown) for drawing air from the mechanical room into the appliance and having an exhaust (not referenced) for exhausting air out of the appliance;
- a pressure transducers (18);
- a pressure controller (12) including an appliance controller, relay boxes for controlling the speed of the intake fan, the speed of the exhaust fan, and the operation of the plurality of appliances in response to the differential pressure signal;

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- means for shutting down a plurality of appliances when a differential pressure exceeds a predetermined threshold;
- means for restarting the appliances in succession in an order based on a priority list; and
- means for monitoring the differential pressure to ensure that the means for restarting does not cause the differential pressure to exceed the predetermined threshold.

Most notably, applicant's attention is directed to the follow text in **US2002/0014538A1** (Weimer et al) that states:

[0035] Appliances 72, 74, 76 are interfaced and connected to the controller 12 via the appliance interfaces 38, 40, and additional appliances are interfaceable via further connections supplied by the expansion board interfaces 42, 44, 46. As a result, **it should be understood that the use of a finite number of appliances is only for the purpose of illustration and explanation and is not to be interpreted as limiting the number of appliances interfaceable with the controller 12.** For example, a preferred embodiment of the controller 12, as seen in FIG. 2, shows two appliance interfaces 38, 40 on the controller 12 circuit board, and expansion board interfaces 42, 44, 46 for interfacing numerous additional appliances. For explanation purposes, discussions of appliances will generally be directed to fuel burning appliances such as boilers, water heaters, and furnaces. However, it is envisioned that other appliances, including non-fuel-burning appliances will be just as interfaceable with the controller 12.

[0038] The display 54 and the keypad 56 are in electronic communication with the controller's 12 display circuitry 48 and keypad circuitry 50, respectively.

[0047] If the microcontroller 28 determines that power up of the appliance 72 is allowable, the circuit will be closed, thus triggering the relay switch 41, and start up will be granted for the appliance 72 to begin operation. **The microcontroller 28 can place restrictions on start up.** For example, start up may only be granted when readings from sensor 18 are within a specific range, after a specific time, within a specific time interval, if other appliances are not currently up on the system 10, or based on a myriad of other computations and processing algorithms within the microcontroller 28."

[0048] **The controller 12 interface with each appliance is continuous.** Furthermore, at any point, **the controller 12 can deny activation to the**



interfaced appliance. Specifically, this becomes important in dealing with system-wide difficulties in maintaining a specific environmental parameter, such as pressure. If the controller 12 is unable to maintain a requisite parameter setting, such as pressure, power adjustments are first made to the fan 14 in an attempt to bring the deviating pressure within the enclosed environment 16 under control. If the microcontroller 28 determines that if after a specific time count, such as 10 seconds, the variable adjustments to the fan 14 have failed to rectify the problem (the inputted pressure parameter is not met), an adjustment on the demands of the system 10 will be addressed before performing a general shut down of all the interfaced appliances. For instance, using the previous boiler analysis, the microcontroller 28 will review the stored time data for power ups in memory 52. The last appliance to start up will be pulled from this data and the appliance interface 38 circuitry within the appliance 72 will be opened so that the appliance 72 is shut down. Using control code and algorithms imbedded within the microcontroller 28, similar decisions can be made by the microcontroller 28 due to the individual information being stored for each appliance and the ability of the microcontroller 28 to selectively control each individual appliance interfaced with the controller 12 through the appliance interfaces 38, 40 and any expansion board interfaces 42, 44, 46.

In regard to claims 8-13, 16, 17 and 20-29, for the purpose of controlling environmental characteristics to reduce the costs associated with the manufacturing and every day operation of a plurality of separate air control systems, it would have been obvious to a person having ordinary skill in the art to operate the **US005205783A (Dieckert et al)** ventilation control system with a single controller operating with any necessary and known customary relays, port connection (e.g. – “RS-232” port) and responding to any necessary characteristics such as the physical layout and/or relative proximity of the various system components (i.e. – relative location of any one appliance with regard to the exhaust), and arranged to controlling and interacting with fuel burning and/or non-fuel burning appliances, in view of the teaching of **US2002/0014538A1 (Weimer et al)**.

### Conclusion

See the attached USPTO form 892 for prior art made of record and not relied upon which is considered pertinent to applicant's disclosure.

### USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Carl D. Price', with a long horizontal stroke extending to the right.

CARL D. PRICE  
Primary Examiner  
Art Unit 3749

cp